

**In the United States Bankruptcy Court
For the Western District of Oklahoma**

In re: Yolanda Alvarado Zarate,)
) Case No. 13-11136
) Chapter 13
Debtor.)
) Judge Niles Jackson

**MOTION TO AVOID JUDICIAL LIEN OF
CAPITAL ONE BANK (USA), N.A., NOTICE OF
OPPORTUNITY FOR HEARING, AND CERTIFICATE OF SERVICE**

Debtor, Yolanda Zarate, through her attorney, Joshua T. Copeland, respectfully moves the Court to Avoid the Judicial Lien of Capital One Bank (USA), N.A., to the extent it burdens her interest in the property described below. In support of her motion, Debtor would show the Court as follows:

1. This case was commenced by the filing of a voluntary petition for relief under Chapter 13 of Title 11 of the United States Code on March 19, 2013.
2. This motion is filed by Debtor under 11 U.S.C. § 522(f)(1)(A) to avoid a judicial lien on the following described real property:

Location: 2600 SW 35th St.
Oklahoma City, OK 73119-1844

Legal Description: All of Lots One (1) and Two (2) in Block Eighty-Seven (87) in INDUSTRIAL ADDITION to Oklahoma City, Oklahoma County, Oklahoma, according to the recorded plat thereof.

Debtor's Interest: Fee Simple – Held in Joint Tenancy with Right of Survivorship with Non-Filing Spouse

3. Capital One Bank (USA), N.A. obtained judgment on January 22, 2010, in case number CS-2008-3737 of the District Court of Oklahoma County, State of Oklahoma, against Rene R. Zarate, who is the same person as the Debtor's Non-Filing Spouse.
4. Capital One Bank (USA), N.A. recorded a Statement of Judgment with the Oklahoma County Clerk on February 10, 2010, thereby creating a judicial lien in Capital One Bank (USA), N.A.'s favor on the real property described in paragraph 2.
5. The existence of this judicial lien impairs an exemption to which Debtor would otherwise be entitled under 11 U.S.C. § 522(b).

6. Debtor resides upon the real property described in paragraph 2, and is entitled to the benefit of the homestead exemption provided by Okla. Stat. tit. 31, § 1(A)(1), however, such exemption and full possession of this real property is impaired by Capital One Bank (USA), N.A.'s judicial lien.

THEREFORE, pursuant to 11 U.S.C. § 522(f)(1)(A), Rule 4003(d), and Rule 9014, Debtor respectfully request the Court enter an Order cancelling and avoiding the judicial lien in the above described real property to the extent it burden's Debtor's Undivided One-Half Interest held in Joint Tenancy with her Non-Filing Spouse, and for such other relief as the Court deems just.

NOTICE OF OPPORTUNITY FOR HEARING

Your rights may be affected. You should read this document carefully and consult your attorney about your rights and the effect of this document. If you do not want the Court to grant the requested relief, or you wish to have your views considered, you must file a written response or objection to the requested relief with the Clerk of the United States Bankruptcy Court for the Western District of Oklahoma, 215 Dean A. McGee Avenue, Oklahoma City, OK 73102 no later than 14 days from the date of filing of this request for relief. You should also serve a file-stamped copy of your response or objection to the undersigned movant/movant's attorney [and others who are required to be served] and file a certificate of service with the Court. If no response or objection is timely filed, the Court may grant the requested relief without a hearing or further notice.

The 14 day period includes the three (3) days allowed for mailing provided for in Bankruptcy Rule 9006(f).

Dated March 31, 2013.

Yolanda Zarate,

By her attorney,

/s/ Joshua T. Copeland

Joshua T. Copeland – OBA No. 22532

Carlson & Copeland, PLLC

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Attorney for Debtor

CERTIFICATE OF SERVICE

I certify that on April 1, 2013 copies of the above referenced document were served through the Court's CM/ECF electronic mail to the parties shown below:

John Hardeman, Chapter 13 Trustee

Assistant United States Trustee's Office

Further, I certify that on April 1, 2013 a copy of the above referenced document was served via U.S. Mail, first class postage prepaid and properly addressed to the following party at the following address:

**Capital One Bank (USA), N.A.
c/o Love, Beal, & Nixon, P.C.
P.O. Box 32738
Oklahoma City, OK 73123-0938**

Further, I certify that on April 1, 2013, a copy of the above referenced document was served via U.S. Mail, certified mail, postage prepaid and properly addressed to the following officer of the listed insured depository institution at the following address:

**Capital One Bank (USA), N.A.
c/o Richard D. Fairbank, CEO
4851 Cox Road
Glen Allen, VA 23060-6293**

Dated March 31, 2013.

/s/ Joshua T. Copeland

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